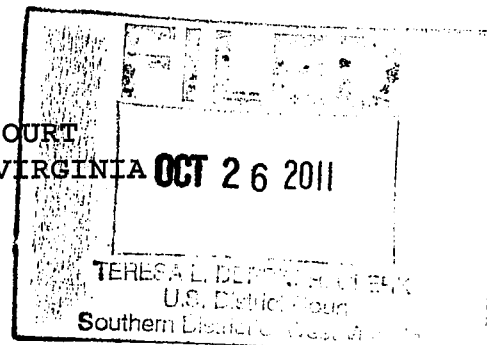


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY



UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:11-00038

HUGHIE ELBERT STOVER

STIPULATION REGARDING E-MAILS

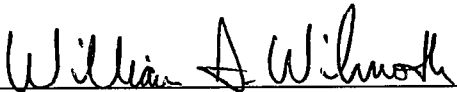
The United States of America and the defendant, Hughie Elbert Stover, do hereby stipulate and agree to the following:

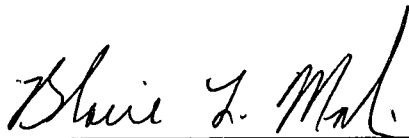
1. On April 9, 2010, the defendant received an email from Lisa Murphy. That email contained an attachment entitled hold order and the email was flagged as having high importance. The defendant received and opened both the email and the attachment to the email, a legal hold order, prior to May 31, 2010. That email and hold order are attached hereto.

2. On January 10, 2011, the defendant received an email from Stephanie Ojeda. The subject line of the email was "Mandatory Legal Hold Order." The email was flagged as having high importance. The attachment line on that email read, "Second Updated Legal Hold.pdf"

The defendant received and opened that email. That email is attached hereto.

Stipulated and agreed to:


WILLIAM DAVID WILMOTH
Counsel for Elbert Stover


BLAIRE L. MALKIN
Assistant United States Attorney


HUGBIE ELBERT STOVER
Defendant

From: Murphy, Lisa
Sent: Friday, April 09, 2010 6:34 PM
To: All AT Massey
Subject: On Behalf of Shane Harvey

Importance: High

Attachments: Hold Order.doc

Lisa A. Murphy, Executive Assistant to

M. Shane Harvey, Vice President & General Counsel

and

Stephanie L. Ojeda, Senior Corporate Counsel

Massey Coal Services, Inc.

300 Morgan Massey Drive

P. O. Box 261

Julian, WV 25529

(304) 369-8500

(304) 369-8698 (Fax)

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Massey Energy Company

Office of the General Counsel
300 Morgan Massey Drive
Julian, West Virginia 25529

Phone (304) 369-8500
Fax (304) 369-8698

TO: All A.T. Massey

DATE: April 9, 2010

SUBJECT: Upper Big Branch Mine Document Hold Order

THIS MEMORANDUM CONTAINS IMPORTANT INFORMATION ABOUT THE RETENTION OF DOCUMENTS AND ELECTRONICALLY STORED INFORMATION RELATED TO THE UPPER BIG BRANCH TRAGEDY. PLEASE READ THIS MEMORANDUM IN ITS ENTIRETY AND COMPLY WITH ALL INSTRUCTIONS HEREIN.

The purpose of this memorandum is to notify and advise you regarding the company's need to preserve information related to the April 5, 2010 tragedy at the Upper Big Branch Mine. This memorandum supersedes any contrary or preexisting instructions or record retention policies you may have received. In other words, normal record retention policies for the information subject to this hold order do not apply and must be immediately suspended.

Effective immediately, a Legal Hold is being placed on all Documents (see Definitions below) pertaining or relating to the Upper Big Branch Mine. There are no exceptions. Until such time as this Legal Hold is no longer in effect, you are to preserve and are not to delete, discard, modify or otherwise destroy any documents relating to the Upper Big Branch Mine.

For purposes of this legal hold, there is no distinction between "official" company files and your "personal" files, nor does it matter in which medium information is stored. Any documents or information that may relate to this matter must be retained, and you must archive or otherwise save in electronic format any such documents that might be automatically deleted from the computer system or other electronic device.

YOU MUST MAKE DILIGENT AND REASONABLE EFFORTS TO PRESERVE RESPONSIVE DOCUMENTS IN ALL LOCATIONS WHERE THEY MAY BE FOUND.

Places that may contain documents that you need to preserve include, but are not limited to:

- Your work area (including your locker)
- Off-site document storage facilities
- Your computer's hard drive (if a computer is removed from service, preserve the hard drive)
- Your personal server space
- Any shared server space you use
- Your email Inbox and Sent Mail folders
- Any email archives you have established
- Any floppy disks, diskettes, backup tapes, CD-ROMs, DVDs, ZIP or JAZ drives, external hard drives, USB drives or keys, etc.
- Your Blackberry, Treo, Palm Pilot, or other PDA
- Your home computer or personal laptop
- Anywhere else that you may have stored responsive documents

When in doubt, please preserve. At this point, all you need to do is identify and preserve relevant documents. Please do not sort, categorize, index, or summarize any documents – including electronic documents – that are responsive to this memorandum, but rather merely identify them and preserve them intact in the way that they were collected or created and filed in the ordinary course of business (e.g., if you created a personal folder in your email, leave it intact and do not try to copy it to a CD or external drive). Even if you have documents that normally would not or should not have been saved, all such materials should be preserved. If you routinely delete emails or other electronic files from your computer, cease doing so immediately with regard to any emails or electronic files relevant to the issues in this legal hold. Also, please do not mark up any documents or create any new documents in response to this memorandum.

Supervisors, you are responsible for ensuring that everyone under your supervision who might have responsive documents complies with these instructions. You are also responsible for ensuring the proper retention and forwarding of responsive documents belonging to employees who are transferred, retire, or otherwise leave the company.

It is vitally important that you preserve and retain all records subject to this legal hold. Failure to follow this legal hold strictly can result in serious consequences. Disciplinary or other appropriate action may be taken against any individual who fails to comply with this directive. Our efforts are continuing, so any new records that are created and are responsive to this memorandum must also be preserved.

If you have any questions about this memorandum or the Legal Hold, please contact your supervisor. We very much appreciate your assistance and thank you in advance for your cooperation.

From: Ojeda, Stephanie
Sent: Monday, January 10, 2011 4:00 PM
To: All AT Massey
Cc: Harvey, Shane
Subject: MANDATORY LEGAL HOLD ORDER

Importance: High

Attachments: Second UPDATED UBB LEGAL HOLD.pdf

As we continue to comply with our obligations to preserve records, please see the attached Mandatory Legal Hold Order from the Office of the General Counsel.

This Mandatory Legal Hold is updated from the hold orders issued on April 9, 2010 and October 6, 2010, respectively.

Let us know if you have questions or concerns.

Stephanie

Stephanie L. Ojeda

Massey Coal Services, Inc.

Senior Corporate Counsel

300 Morgan Massey Drive

P.O. Box 261

Julian, WV 25529

Phone: (304) 369-8500, ext. 689

Fax: (304) 369-8699

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